

Orientation Information

Service Suppliers and their Representatives

- I. Frequently Asked Questions/Violations**
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The material provided in this document is intended to assist Service Suppliers and their representatives to understand the rules and laws that govern the activity in which they are involved.

To test your understanding of the activity, we have provided some frequently asked questions at the beginning of the document, followed by a selection of the specific rules governing their activity. The information in this document is meant to reflect but not replace reliance on the rules manual supplied by the Gambling Commission. (Please note the date at the bottom of each page as it reflects the last time this document was updated.)

Frequently Asked Questions/Violations

- 1. If I am providing a loan or lease agreement to a licensee directly for gambling equipment, do I have to get a service supplier license?**
Yes you need to obtain a license *prior* to providing any loan or lease directly for gambling equipment (see 230-02-205). An example would be providing a loan which is intended directly for the purchase of card tables
- 2. Am I allowed to possess gambling equipment prior to receiving my license as either a distributor or service supplier?**
No, you may not possess any equipment until you have received your gambling license.
- 3. Is there a limit to the responsibilities I can take on as a service supplier for a licensee?**
Per 230-04-119(5), you may not take ultimate responsibility for a gambling activity. An example would be signing contracts that would obligate the licensed operator.
- 4. Can I be a service supplier representative and represent more than one service supplier at the same time?**
No per 230-04-124.

5. Can I be a service supplier representative and also have a financial interest in a specific manufacturer or distributor business?

Yes; however, you will be required to disclose that interest to the commission, the distributor, the manufacturer, and any operator you are doing business with. In addition, the manufacturer or distributor will be prohibited from selling punch boards, pull-tabs, or disposable bingo cards to the operator you are working with.

6. I filed all my financial information with the commission when I originally obtained my license. Do I have to tell the commission about any loans I obtain after I receive my license that I did not originally disclose?

Per 230-12-305, you are required to submit any changes in the documents you have submitted or information on file with the commission. All loans, capital contributions, or draws from lines of credit from other than a recognized financial institution that individually or collectively exceed a total of \$10,000 during a calendar year must be reported with your quarterly activity report. If you do not file a quarterly report, you must file this information within 60 days of the transaction date.

NOTE: Distributor or service supplier representatives are not required to file financial statements when they are licensed, so they are not required to report any loans after they have been licensed.

7. Are there any other changes I need to notify the Commission of after I receive my license?

You need to notify the Commission of any changes of location, management, ownership, criminal or civil violations, etc. (See 230-04-310, 230-04-320, 230-04-330, 230-04-340 and 230-04-350.)

Immediate notification: Changes to original application information due to death, incapacity, receivership, bankruptcy, or assignment for the benefit of creditors

30 days prior to change: change of name or location

Within 10 days after change: Change of 10% or more in corporate stock ownership; however, if the corporation is publicly traded, the reporting threshold is lowered to 5%. Also, changes to an LLC when the change in membership involves a new person, new organization or managing member.

Within 14 days after filing: All criminal actions filed against the licensee or the licensee's president, CEO, Chair of the Board, treasurer, partner, substantial interest holder, gambling manager, LLC member or LLC managing member.

Within 30 days after the change: Change in directors or officers of corporation or change in business classification when all owners remain the same.

Within 30 days of the action: Report administrative and civil actions filed by or against the licensee or the licensee's president, CEO, Chair of the Board, treasurer, partner, substantial interest holder or gambling manager that involve ownership or control of the business, dissolutions, actions significantly affecting

business interest, and all administrative actions from other gambling regulatory agencies, including those from other countries and Indian tribes. Also, submit final disposition of all criminal, civil and administrative cases, including settlement agreements.

Within 60 days following the action: Updated documents/information that affect your organization including but not limited to: articles of incorporation, by-laws, leases, rental, consignment, franchise or other agreements between manufacturers of card games and card room licensees and all loans in excess of \$10,000 except when the loan is from a bank.

8. If I am licensed as a service supplier, may I sell table layouts along with the approved proprietary game I represent?

No, you must also have a distributor's license in order to sell equipment.

9. What are the guidelines for pricing gambling products?

Review 230-12-330 and 340 for information on pricing.

10. I know there are specific rules about discriminatory pricing. Does that mean I can't offer discounts or incentives to my customers?

You may offer discounts at any time; however, the discount has to be available to everyone who is willing to meet the discount criteria, not just select customers.

For example, a service supplier could offer a discount to a customer who signed a 12 month lease for a proprietary table game as long as any other customer with a 12 month lease was also given the same discount.

However, service suppliers cannot offer an incentive such as one free month along with a lease agreement, even if it is offered to everyone because there is a specific rule prohibiting offering a gift, free merchandise or service (WAC 230-12-320(1)(2)).

11. I am a service supplier representative and have been told I cannot do any card room employee duties without obtaining a CRE license. What are the duties of a Card Room Employee so I know what I cannot do without a license?

230-02-415 Card Room Employee

A card room employee is any person who is involved in the operation of social card games when the games involve the collection of fees. A person who performs at least any of the following functions shall be designated as card room employee:

- Collecting fees
- Dealing
- Supervising: Pit Boss, Floor Person, etc.
- Cashier: Selling and Redeeming Chips
- Surveillance and Security
- Accounting of card room funds
- Controlling keys to secure areas
- Game starters

If you were to perform any of these functions while you were in a card room, you would be acting outside the scope of your service supplier license.

12. If I give an operator advice that causes the operator to be charged with a violation, can I also be charged?

It will depend on the circumstances and the outcome of the investigation; however RCW 9.46.185 does allow the Commission to charge “any person who knowingly causes, aids, abets, or conspires with any person to violate any rule or regulation...shall be guilty of a gross misdemeanor.” An example of this violation would be advising operators of winning patterns in pull tab games. In addition to losing your gambling license, you could also be criminally prosecuted for doing this or anything similar.

II.

Definitions

WAC 230-02-205	Gambling service supplier defined
WAC 230-02-206	Gambling service supplier representative defined
WAC 230-02-208	Punchboard and pull tab service businesses
WAC 230-02-412	Gambling Equipment Defined

WAC 230-02-205 Gambling service supplier defined.

A "gambling service supplier" is any person who provides gambling related service for compensation, whether directly or indirectly.

(1) Gambling related service include at least the following:

(a) Providing consulting or advisory service regarding gambling activities;

(b) Providing gambling related management service;

(c) Providing financing for purchases or leases of gambling equipment or for providing infrastructure that supports gambling operations for more than one licensee. For purposes of this section, financing by any bank, mutual savings bank, or credit union regulated by the department of financial institutions or any federally regulated commercial lending institution shall not be deemed as providing gambling related service;

(d) Providing any other service or activity where influence may be exerted over any gambling activity licensed by the commission;

(e) Providing assembly of components for gambling equipment under a contract with a licensed manufacturer; or

(f) Training individuals to conduct authorized gambling activities.

(2) The term "gambling service supplier" does not include the following:

(a) Universities and colleges that are regulated by the Washington state board of community and technical colleges and the higher education coordinating board which train individuals to conduct authorized gambling activities;

(b) Licensed manufacturers or distributors who service and repair pull-tab dispensing devices, bingo equipment or any other authorized gambling equipment;

(c) Attorneys, accountants, and governmental affairs consultants whose primary business is providing professional service that are unrelated to the management or operation of gambling activities; and

(d) Persons that only provide nonmanagement related recordkeeping service for punch board and pull-tab operators, when the combined total gross billings from such service does not exceed twenty thousand dollars during any calendar year.

WAC 230-02-206 Gambling service supplier representative defined.

A "gambling service supplier representative" is any natural person who:

(1) Represents a licensed gambling service supplier and who is directly involved in providing a service listed in WAC [230-02-205](#)(1);

(2) Instructs card room activities to students enrolled in a university or college regulated by the Washington state board of community and technical colleges, and the higher education coordinating board when such instruction covers dealer procedures as opposed to general casino management.

WAC 230-02-208 Punchboard and pull tab service businesses

Punchboard and pull tab service businesses provide record keeping service to operators for compensation. These service include reconciling played games (sales, prizes, over/short, etc.); completing monthly records, quarterly activity reports, or other mandated records; and storing games removed from play.

Punchboard and pull tab service businesses are required to obtain a permit from the commission before performing the service mentioned above. See WAC 230-04-133 for details. If gross billings exceed

\$20,000 per year or management or consulting service are provided, a license rather than a permit is required.

WAC 230-02-412 Gambling Equipment Defined

Any device, expendable supply, or any other paraphernalia used in conjunction with or facilitate gambling. Card room gambling equipment includes but is not limited to:

- Gaming chips or checks
- Cards
- Card shuffling devices
- Game layouts
- Ace finders
- Gaming tables
- Accounting systems - Bet totalizers or Progressive jackpot meters

Exemptions: Equipment operated under license classes A, B, C, and D may not be considered gambling equipment.

III. General Information for all Licensees

RCW 9.46.153(3)	<u>Licensee Responsibilities Regarding Illegal Activities</u>
RCW 9.46.0269&220-222	<u>Professional Gambling</u>
WAC 230-04-022	<u>Certification procedure -- Information required from all applicants.</u>
WAC 230-04-124	<u>Licensing of manufacturer, distributor, gambling service supplier, and linked bingo prize provider representatives -- Exceptions.</u>
WAC 230-04-125	<u>Distributor or gambling service supplier representative license -- Restrictions and procedures for changing employment.</u>
WAC 230-04-310	<u>Change of Name</u>
WAC 230-04-330	<u>Change of Management</u>
WAC 230-12-210	<u>Prices charged by manufacturers, distributors and operators for goods and service not to be fixed by agreement.</u>
WAC 230-12-225	<u>Repair or service not to be conditioned upon exclusive supply arrangement.</u>
WAC 230-12-230	<u>Agreements restricting freedom to buy and sell -- Prohibited.</u>
WAC 230-12-250	<u>No division of territories allowed.</u>
WAC 230-12-305	<u>Report Leases, Agreements, and Loans in Excess of \$2,000</u>
WAC 230-12-310	<u>Civil and/or Criminal Suits</u>
WAC 230-12-320	<u>Manufacture and distribution of gambling equipment and service -- Prohibited practices -- Gifts, promotional activities, and loans -- Exceptions</u>
WAC 230-12-330	<u>Availability of gambling equipment and related products and service-- Prices--Contracts--Discounts--Restrictions -- Exceptions.</u>
WAC 230-12-335	<u>Control of Gambling Equipment</u>

CRIMINAL VIOLATIONS/ILLEGAL ACTIVITIES

The following are laws contained in the Revised Code Of Washington (RCW). Violations of these statutes may lead to criminal proceedings as well as loss of the gambling license(s) held by any licensee.

If a distributor, service supplier or licensed representatives is charged with any of these crimes, their gambling license will also be in jeopardy, even if the illegal activity did not occur during the course of their regular duties.

RCW 9.46.153(3) Licensee Responsibilities Regarding Illegal Activities

Licensees, managers, and employees must notify the Gambling Commission if they suspect illegal gambling activity may be occurring on or off the premises. If a licensee, manager, or employee knows an illegal activity is being conducted and fails to notify the Commission and/or the appropriate law enforcement agency, the person risks losing his or her gambling license.

RCW 9.46.0269 & 9.46.220-222 Professional Gambling

The solicitation of players for after-hours, illegal card games or allowing a bookmaking operation to be conducted on the premises is professional gambling. Licensees who allow any unauthorized or illegal activity to occur on their premises are aiding and abetting professional gambling. Operators, managers, and employees have an affirmative duty to ensure that their establishments are not used for the conduct of illegal activities or to solicit participants for illegal activities.

NOTE: In addition to the responsibilities cited above concerning information and/or involvement in illegal gambling activities, operators and licensed gambling employees are reminded that involvement in or knowledge of other types of illegal activity can also be grounds for suspension or revocation of a gambling license.

WAC 230-04-022 Certification procedure -- Information required from all applicants.

In addition to other information required by the commission, each applicant shall provide the following information on or attached to the application:

Articles of incorporation and bylaws.

(1) Copy of corporate applicants' articles of incorporation and bylaws; or, if not a corporation, a copy of any bylaws and other documents which set out the organizational structure and purposes of the organization;

Lease or rental agreements.

(3) Details and copies of all lease or rental arrangements, whether oral or written, between the applicant and the owner of premises upon which the gambling activity will be conducted, if such premises are leased or rented;

Franchise agreements.

(4) Details and copies of any and all franchise agreements or other agreements, whether written or oral, if any, between the applicant and distributors or manufacturers of equipment or between the applicant and any other person where those agreements relate to gambling activities or gambling equipment;

Management agreements.

(5) Details and copies of all proposed management agreements or contracts between the applicant and any gambling service supplier involved in providing service defined in WAC [230-02-205](#). All such agreements or contracts shall be reviewed by commission staff prior to the effective dates of the agreements to assure compliance with this title. No financing or management service shall be provided prior to commission approval of the contracts;

Paid employees or agents.

(6) The name, address, date of birth, and Social Security number of each paid employee or agent who will work in the activity for which the license is sought and a schedule of the proposed number of employees, job descriptions, and a proposed pay schedule;

Substantial interest holders.

(7) Sufficient personal information to ensure each substantial interest holder as defined by WAC [230-02-300](#) is qualified to hold a license or participate in a licensed or authorized gambling activity;

Report changes to application.

(8) If any information required on the application, changes or becomes inaccurate in any way, the commission shall be notified prior to issuance of a license. Failure to notify the commission of any changes affecting an application may constitute grounds for suspension or revocation of all licenses.

WAC 230-04-124 Licensing of manufacturer, distributor, gambling service supplier, and linked bingo prize provider representatives -- Exceptions.

Except as allowed by this section, all individuals representing or acting as an agent of a licensed manufacturer, distributor, gambling service supplier or linked bingo prize provider shall be licensed by the commission prior to selling, promoting or providing any person gambling equipment, paraphernalia or related service. This includes individuals that manage or supervise individuals selling, promoting, or providing products or service for which a license is required. A licensed manufacturer, distributor, gambling service supplier or linked bingo prize provider shall not allow an unlicensed person to represent them in transactions restricted by this section and shall take all measures necessary to prevent an unlicensed person from doing so. The following restrictions, procedures and exceptions apply to representative licenses:

Exceptions - representative license not required.

(1) The following individuals do not require a separate representative's license:

(a) A sole owner, partner, major officer or board member and/or owner of a substantial interest in an entity;

(b) Office, clerical or warehouse personnel who have contact with customers or potential customers only by telephone at the manufacturer's, distributor's, gambling service supplier's, or linked bingo prize provider's own premises when working under the immediate and direct supervision of an owner, partner, major officer, or a licensed manager or supervisor; and

(c) Resident agents required by WAC [230-12-300](#) when such agents are not involved in selling or providing products or service for which a license is required.

Signature of employer required.

(2) The manufacturer, distributor, gambling service supplier, or linked bingo prize provider for which the representative will work shall sign the application acknowledging that the applicant will be representing them with their full knowledge and consent.

Requirements.

(3) An applicant for a license as a distributor representative, gambling service supplier representative, or linked bingo prize provider representative shall:

Training.

(a) Complete a training course for any activity being managed, as required and provided by the commission within thirty days after the first day worked; and

Represent only one employer at a time - exceptions.

(b) Represent only one licensed manufacturer, distributor, gambling service supplier, or linked bingo prize provider at a time and shall not represent a manufacturer: Provided, That this rule shall not prevent a licensed representative from representing a manufacturer, distributor, and/or linked bingo prize provider when all businesses are owned by the same person: Provided further, That this rule shall not bar the distributor's representative from representing his own distributor who is also licensed as a manufacturer.

Conflict of interest.

(4) If a licensed gambling service supplier representative has any interest in a licensed manufacturer or distributor and they provide service to any punch board, pull-tab, or bingo operator, they shall inform the commission, the operator, and the manufacturer or distributor of the relationship. Such manufacturer or distributor shall be prohibited from selling punch boards, pull-tabs, or disposable bingo cards to such operator.

WAC 230-04-125 Distributor or gambling service supplier representative license -- Restrictions and procedures for changing employment.

All licensed distributor or gambling service supplier representatives shall abide by the following restrictions and procedures when changing employers:

What happens if I leave the employment of the distributor or gambling service supplier I represent?

(1) In the event that a licensed distributor or gambling service supplier representative ceases to represent the distributor or gambling service supplier under which a license was granted for any reason, the representative shall immediately notify the commission. Upon termination of employment the license shall immediately become void and shall be returned to the commission.

What steps must I complete prior to beginning employment to represent another distributor or gambling service supplier?

(2) Prior to beginning employment to represent any other distributor or gambling service supplier, a

previously licensed distributor or gambling service supplier representative shall submit a new application. The application shall include a statement that the previous employer has been notified of the change in employment and shall be signed by the distributor or gambling service supplier wishing to employ the distributor or gambling service supplier representative.

Can I begin to represent my new employer prior to receiving my license?

(3) A previously licensed distributor or gambling service supplier representative shall not represent a new employer prior to receiving a license from the commission. Prior to granting a license to a previously licensed individual, the commission may conduct an investigation to determine the continued qualification of the individual. Such investigation may include inquiries to the previous employer.

What is the fee for obtaining a license to represent another distributor or gambling service supplier?

(4) The fee for a license to represent a different distributor or gambling service supplier shall be the same as a license renewal, as set forth in WAC [230-04-204](#). The expiration date for such license shall be as set forth in WAC [230-04-190](#).

WAC 230-04-310 Change of Name

No licensee shall change their trade or corporate name without notifying the Commission at least thirty (30) days prior to the effective date of such change. The Commission shall approve such changes.

WAC 230-04-330 Change of Management

If there is a change of a substantial interest holder (see WAC 230-02-300), the license may be voided. See WAC 230-04-340 for conditions that allow a transfer of a license.

WAC 230-12-210 Prices charged by manufacturers, distributors and operators for goods and service not to be fixed by agreement.

No manufacturer, distributor or operator shall by agreement, either express or otherwise, with any other manufacturer, distributor or operator, fix the price at which any device, paraphernalia, machine, equipment, punch board or pull-tab, prize or any other item used in connection with any of the activities authorized by chapter [9.46](#) RCW, as now or hereafter amended, shall be sold, or for which service in connection therewith shall be rendered. The price of these items in the competitive market place shall be established by each manufacturer, distributor or operator for the products and service offered by each and shall not be established, directly or indirectly, in concert with one another.

WAC 230-12-225 Repair or service not to be conditioned upon exclusive supply arrangement.

No licensed manufacturer, distributor, or gambling service supplier shall condition repair or service of any device or product upon an agreement by any person to purchase or obtain products or service solely from such manufacturer, distributor, or gambling service supplier or solely from any other person or combination of persons: Provided, That routine maintenance agreements shall not be considered a violation of this section.

WAC 230-12-230 Agreements restricting freedom to buy and sell -- Prohibited.

(1) Except as provided in subsections (3), (4), (5), and (6) of this section, no person shall enter into any agreement, expressly or implied, with any other person which requires any person to purchase exclusively from, or sell exclusively to, any other person, or which prohibits any person from purchasing from or selling to any other person, any devices, materials, products, equipment or service which are used or offered in any way in connection with a gambling activity.

(2) No person shall enter into any agreement, express or implied, wherein any person is prohibited from, or required to, make purchases or sales only within a particular geographic area: Provided, That such agreements may be entered into between a licensee and its licensed representative.

(3) For amusement games, a person may enter into an agreement with another person for a period up to three years requiring such person to purchase exclusively from or sell exclusively to such other person, amusement games. The agreement may provide that it shall be automatically renewed for

another three year period, or successive three year periods, if neither party gives termination notice of the agreement at least thirty days prior to its termination date.

(4) As related exclusively to amusement games, a person may enter into an agreement with another person for a period up to three years requiring such person to purchase exclusively from or sell exclusively to such other person, devices, materials, products, equipment, or service which are used in connection with a particular amusement game. The agreement may provide that it shall be automatically renewed for another three year period, or successive three year periods, if neither party gives termination notice of the agreement at least thirty days prior to its termination date.

(5) A licensed linked bingo prize provider may require a licensee to utilize particular bingo cards for conduct of a game with a linked bingo prize if such requirement is agreed to in a contract between a licensed linked bingo provider and licensed bingo operator, which is approved by the director.

(6) A linked bingo prize provider may enter into an exclusive agreement with a manufacturer to provide the bingo paper used in the linked bingo game.

WAC 230-12-250 No division of territories allowed.

No manufacturer or distributor shall make or have an agreement or understanding with any licensee that either of them shall be restricted in the operation and carrying on of business to a specific geographic area, or areas, and such a restriction shall not be a condition of any sales between a manufacturer or distributor and any other licensee: Provided, That this shall not prevent a distributor or manufacturer from assigning sales territories among its bona fide representatives.

WAC 230-12-305 Report Leases, Agreements, and Loans in Excess of \$2,000

Licensed operators are required to submit any information concerning loans from other than a recognized financial institution which individually or collectively exceed a total of \$2,000 during any calendar year. This includes loans from corporate officers and shareholders. The information should be submitted on the next quarterly report. Licensed operators must also submit all leases, rental, consignment, franchise, or other agreements relating to gambling activities or altering the commercial stimulant business.

WAC 230-12-310 Civil and/or Criminal Suits

The licensee will report to the Commission all civil or criminal actions (except for personal injury, debt collection, adoption, paternity, wage disputes, and non-criminal traffic infractions) filed by or against them (including the president, chief executive officer, chairman of the board, treasurer, partner, any person holding a substantial interest (see WAC 230-02-300), or manager of the licensed activity). Licensees must also report the final disposition of each case.

Notification will be made within 30 days of the notice of the action filed or with the next quarterly activity report filed with the Commission, whichever is sooner.

WAC 230-12-320 Manufacture and distribution of gambling equipment and service -- Prohibited practices -- Gifts, promotional activities, and loans -- Exceptions.

Manufacturers and distributors shall not seek to control the distribution of gambling equipment, devices, related supplies or paraphernalia, or service by any means other than those authorized by this title. The following restrictions and procedures apply to the distribution of gambling equipment, devices, related supplies or paraphernalia, and service:

Can licensees offer gifts or similar items to other licensees?

(1) Other than promotional activities as authorized by this section, or trade account terms authorized by WAC [230-12-340](#), no licensee or employee thereof selling or offering to sell gambling products or service shall directly or indirectly provide or offer any gift, free merchandise or service, credit or loan of money, premium, or rebate to any person or employee thereof who is licensed to purchase or operate such.

Can licensees solicit gifts or similar items from other licensees?

(2) No licensed operator or distributor, or employee thereof, shall directly or indirectly solicit any gift, free merchandise or service, credit or loan of money, premium, or rebate from any licensed manufacturer or distributor, or employee thereof.

What types of activities are allowed for manufacturers to promote their goods or service with operators?

(3) Manufacturers may provide promotional merchandise of nominal value, such as tee shirts, caps, cups, pens, calendars, etc., to licensed operators, and operators shall be allowed to accept such, under the following guidelines:

(a) The cost of such promotions shall not exceed fifteen dollars in value per item. Each manufacturer is responsible for establishing the value of each type of promotional merchandise and shall maintain records supporting such;

(b) Each item shall promote the manufacturer or a specific product or line of products made by the manufacturer;

(c) Such promotions shall not be based on past sales or a level of business; and

(d) Such promotions may not be contingent on the purchase of more than one case of a specific product.

What types of activities are allowed for manufacturers to promote their goods or service with distributors?

(4) Manufacturers may provide promotional merchandise, entertainment, or travel to distributors, and distributors shall be allowed to accept such, under the following guidelines:

(a) Promotional merchandise and service, such as tee shirts, caps, pens, calendars, etc., may be provided to distributors if:

(i) The value is limited to twenty-five dollars for each individual item; and

(ii) The total amount of promotional merchandise and service offered to a distributor and employees thereof shall not exceed a collective value of one thousand dollars during any calendar year;

(b) Entertainment such as meals, recreational or sporting events, etc., may be provided to distributors, or employees thereof, if:

(i) The distributor is accompanied by a licensed manufacturer's representative, owner, partner, officer, or substantial interest holder of a corporate licensee;

(ii) The total amount of entertainment to a distributor and employees thereof shall not exceed a collective value of one thousand dollars during any calendar year;

(iii) The entertainment is provided within the state of Washington; and

(iv) Written documentation of the business purpose of the entertainment is maintained;

(c) Trips to the factory location of a manufacturer, including transportation, meals, and lodging may be provided to distributors and/or their licensed representatives once each calendar year.

What additional requirements apply to authorized "promotional activities"?

(5) The following restrictions and procedures apply to promotional activities between manufacturers and distributors:

(a) All "promotional activities" shall be directly related to promotion of the manufacturer's products and in no way related to past sales;

(b) Promotional activities shall not include the direct or indirect transfer of cash, negotiable instruments, or cancellation or remittance of debts to a licensee or employee thereof. All costs related to "promotional activities" shall be initially paid for by the manufacturer rather than providing reimbursement to the distributor;

(c) Manufacturers shall be responsible for maintaining detailed records for all "promotional activities" and making such records available to the commission upon request. These records shall include at least the following:

(i) The product or service being promoted;

(ii) The name of the licensed distributor and the name of any person directly or indirectly benefiting from a "promotional activity";

(iii) The value of any gift or service provided. The value shall be based on the cost to the

manufacturer to provide such;

- (iv) The date a "promotional activity" was provided;
- (v) The place the "promotional activity" occurred, if applicable; and
- (vi) The name of the owner, partner, officer, or other representative of the manufacturer who authorized the "promotional activity."

Can a manufacturer or distributor loan equipment to a distributor or operator?

(6) A manufacturer or distributor may loan gambling equipment to licensed distributors or operators subject to the following restrictions:

- (a) Equipment loans may be made for the following reasons:
 - (i) To a distributor for displaying the manufacturer's products, limited to one such loan, per product, per calendar year;
 - (ii) To a licensed distributor or operator for training of employees, limited to one such loan, per calendar year; or
 - (iii) For use as a replacement by a licensed operator while awaiting delivery of a product that has been purchased, leased, or removed for repair;
- (b) Equipment loans shall be limited to ninety days per loan.
- (7) This section shall not apply to transactions conducted with tribal governments operating class III casinos under tribal/state compacts or with management companies operating such casinos on the behalf of tribal governments.

WAC 230-12-330 Availability of gambling equipment and related products and service--Prices--Contracts--Discounts--Restrictions -- Exceptions.

Manufacturers and distributors shall make their products and service available to all licensees without discrimination. Except as authorized by this section, gambling equipment, devices, related paraphernalia or supplies, and service shall be offered to any licensee wishing to purchase such, for the same price and terms. The following restrictions, procedures, and exceptions apply to prices and terms related to sales of gambling-related products or service:

Pricing shall be consistent - exceptions.

- (1) **Discriminatory prices are prohibited.** Prices are considered discriminatory when identical or similar items or service are offered to different persons for a different price or under different terms or conditions: Provided, That prices set under the following criteria shall not be considered discriminatory:
 - (a) **Prices that are established in advance** and available for review by the commission and customers prior to accepting a sales order utilizing such. For purposes of this section, prices are deemed to be established and available when they have been mailed or transmitted by facsimile to the commission at least forty-eight hours prior to completing sales transactions or accepting orders for products or service;
 - (b) **Separate and different price schedules** established by manufacturers or distributors for transactions conducted with licensees at different marketing levels when such prices are progressively lower at each marketing level above the operator level;
 - (c) **Prices that are based upon the delivery location** of an item or service. If the price of an item or service is based upon "free on board" (FOB) terms at a specific location, such price may be varied based upon delivery at a different location, if such is justified by objective evidence. The burden of proof regarding such price differentiation is borne by the seller. Such prices are subject to all other requirements of this section; and
 - (d) **Short-term price reductions or "sales"** by manufacturers or distributors are authorized when every licensee is afforded an opportunity to participate. For purposes of this section licensees will be deemed to have been afforded an opportunity to participate when:
 - (i) All prices and terms are clearly posted at all sales outlets for the benefit of operators and provided to all customers serviced by mobile sales representatives;
 - (ii) Manufacturers provide full details of the sale to all licensed distributors, including prices and terms, at least forty-eight hours prior to accepting orders for products or service being offered at a sale

price. Such notice shall be by mail or telephone facsimile; and

(iii) Any limitations or conditions of the sale are clearly stated in advertisements or notices for such sale.

Contracts restricting sales not allowed.

(2) Except as set forth in WAC [230-12-230](#), licensees shall not enter into contracts that directly or indirectly restrict the distribution or use of gambling equipment, devices, paraphernalia, supplies, or service: Provided, That holders of proprietary rights to products or service that have been gained through patents, copyrights, trademarks, or other similar rights bestowed by state or federal law or by courts shall be allowed to enter into license agreements with manufacturers that restrict the ability to manufacture or distribute products or service if all other requirements of this section are met. The following transactions are prohibited:

(a) An operator or distributor shall not agree to deal in, purchase, sell, lease, or operate any particular brand or brands of gambling device or equipment to the exclusion of any other brand of gambling device or equipment;

(b) A manufacturer or distributor, or licensed representative or employee thereof, shall not sell or offer to sell, lease, or loan any gambling-related product, service, or merchandise if such is contingent upon the purchase or order of another product, service, or merchandise; and

(c) Except as set forth in this subsection, no person shall enter into any agreement, express or implied, that prohibits a person from selling or providing any gambling-related product or service within a particular geographic area: Provided, That -

(i) Licensed manufacturers, distributors, and service suppliers may enter into such agreements with its licensed representative; and

(ii) An operator may enter into an agreement with a licensed service supplier that is supplying only management or consulting service when such agreement only restricts the service supplier from supplying the same or similar service to other operators within a specified geographic area.

Discounts.

(3) Manufacturers and distributors may offer discounts of base prices that are authorized by this section when such discounts are nondiscriminatory. For purposes of this title, discounts will be deemed to be nondiscriminatory when:

(a) Offered to all licensees on the same terms;

(b) The scheme upon which the discount is based is in writing and submitted to the commission at least forty-eight hours prior to being offered;

(c) The discount applies to:

(i) A single sales transaction; or

(ii) Multiple sales transactions, which are made over a period of time not to exceed one week. For purposes of this section, one week shall be defined as seven consecutive days; and

(d) The level of a discount is based only upon any of the following criteria:

(i) The amount of product sold or the dollar value of the sale;

(ii) Whether the purchaser makes full payment in cash at time of sale;

(iii) Whether the purchaser makes final payment for a transaction within a predetermined time period for sales made under "trade account" terms; and

(iv) Any other structure or terms, subject to preapproval by the director. The manufacturer shall pay for the approval process and any additional requirements necessary to assure compliance with this section.

Limiting sales to specific market levels.

(4) A licensed manufacturer or distributor may elect to limit sales of products and service to licensees at any marketing level. For purposes of this section, marketing levels are defined as manufacturer, distributor, and operator. If a manufacturer or distributor elects to make sales to any licensee at a marketing level, sales must be made to all licensees at the same level: Provided, That if the distributor is in violation of WAC [230-12-340](#), the manufacturer shall not be required to make sales to that distributor: Provided further, That transactions between a manufacturer and distributor, when

both are owned and operated by the same persons, are considered internal to that business. For purposes of this section, internal transactions are not considered sales at a different marketing level. All other restrictions of this section apply to such sales. For example:

- (a) A licensed manufacturer may elect to sell or provide products and service only to distributors; or
- (b) A licensed distributor may elect to sell or provide products and service only to operators.

Minimum purchasing requirements not allowed - exceptions.

(5) Manufacturers or distributors shall not set minimum purchase requirements for any product or service, except as authorized below:

(a) Minimum purchase requirements are not allowed for purchases made under prepaid or cash on delivery (COD) terms: Provided, That manufacturers may establish and charge a reasonable fee for service to handle an order for products or service below a specified level, if such policy is in writing and provided to distributors prior to accepting orders;

(b) Minimum purchase restrictions may be set for transactions between manufacturers and distributors that are conducted using trade account terms, as authorized by WAC **230-12-340**;

(c) Discounts may be set based upon a minimum purchase amount as authorized by subsection (3) of this section; and

(d) Minimum purchase restrictions may be placed on products being offered for a bargain or "sale" price if a bargain or "sale" price is established for any and all levels of purchases under such terms.

Sales of nongambling products and service.

(6) A manufacturer or distributor shall not grant licensees, nor shall such licensees accept, more favorable prices, credit terms, or other arrangements than those extended to nonlicensed persons purchasing identical or similar nongambling goods or service. The price of nongambling goods or service sold to licensees shall be in conformity with the open market price in the locality where sold. The terms of such sales shall not exceed those normally granted in accordance with the customary business practice of the particular trade in the locality where such sales are made.

Transactions with tribal casinos.

(7) This section shall not apply to transactions conducted with tribal governments operating class III casinos under tribal/state compacts or with management companies operating such casinos on the behalf of tribal governments.

WAC 230-12-335 Control of Gambling Equipment

Prior to selling or buying gambling equipment, a licensee shall ensure that the person receiving or selling the equipment possesses a valid gambling license.

IV. Information Specific to Service Suppliers

WAC 230-04-119 <u>Licensing of gambling service suppliers.</u>

WAC 230-04-119 Licensing of gambling service suppliers.

Prior to providing any type of gambling related service, a gambling service supplier shall first obtain a license or certification from the commission. The following requirements and restrictions apply to certification and licensing of gambling service suppliers:

License required.

(1) For purposes of this title, a license is required to provide any service related to licensed gambling activities as defined in WAC [230-02-205](#).

License not required.

(2) A sole owner, partner, major officer and/or owner of a substantial interest in a corporation licensed as a gambling service supplier shall not be required to be additionally licensed as a gambling service supplier representative to perform duties in connection with the gambling service supplier's business. Except as provided in this section, a gambling service supplier shall not employ any unlicensed person to perform duties for which a license is required and shall take measures necessary to prevent an unlicensed person from doing so.

Application for license or certification.

(3) The applicant shall complete the application form supplied by the commission. The applicant shall provide, on the application form or attached thereto, a full description of all service provided or planned to be provided to each licensee of the commission. Such description shall be in writing and include details necessary for commission staff to determine the scope of service provided to each licensee and the responsibilities of each party under the agreement.

Changes to the application.

(4) The applicant shall notify the commission within thirty days of any change in the information submitted on or with the application form.

Limit of responsibility.

(5) In no circumstance may a gambling service supplier assume ultimate responsibility for a licensee's activity.

License fees.

(6) License fees for gambling service suppliers shall be as set forth in WAC [230-04-203](#).

Gambling service supplier holding an interest in a pull-tab manufacturer or distributor business.

(7) A licensed gambling service supplier or substantial interest holder thereof that provides service to punch board and pull-tab operators shall not hold a substantial interest in a licensed manufacturer or distributor of punch boards and pull-tabs: Provided, That for purposes of this section only, the director may determine that the spouse of an individual that is a substantial interest holder in a licensed gambling service supplier business will not be considered a substantial interest holder in the gambling service supplier business. In making such a determination, the director will assess the potential for involvement and/or influence in the gambling service supplier business and the manufacturer or distributor business and whether any potential influence is material. The director may impose additional requirements on either the gambling service supplier business and/or the manufacturer or distributor business. Such limitations may include, but are not limited to, prohibiting sales or providing service to an operator by the affected gambling service supplier business, or manufacturer or distributor business. At least the following documents may be considered by the director in a determination of potential influence:

- (a) Community or marital property agreements;
- (b) Separate property agreements;
- (c) Prenuptial agreements; and
- (d) Wills and codicils.